

City Council Introduction: **Monday**, October 9, 2000
Public Hearing: **Monday**, October 16, 2000, at **1:30 p.m.**

Bill No. 00-182

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3278**, requested by Gary Bredehoft of Olsson Associates, to reduce the Building Line District from 50' to 40' along South Street from Folsom Street to South 1st Street.

STAFF RECOMMENDATION: Approval.

ASSOCIATED REQUESTS: Annexation No. 00004 (00-183) and Preliminary Plat No. 00019, South Street Business Park (00R-285).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: September 6, 2000
Administrative Action: September 6, 2000

RECOMMENDATION: Approval (8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent).

FINDINGS OF FACT:

1. This change of zone request to reduce the Building Line District and the associated Annexation No. 00004 and Preliminary Plat No. 00019, South Street Business Park, were heard at the same time before the Planning Commission.
2. The Planning staff recommendation to approve this change of zone request is based upon the information contained in the staff report on pp.2-3, concluding that Figure 31, Improvements for Future Road Network 1-20 Year Program in the Comprehensive Plan, shows no improvements to this section of South Street. Therefore, there is no apparent reason to reserve the additional setback along South Street.
3. The applicant's testimony is found on p.4-6.
4. There was no testimony in opposition.
5. On September 6, 2000, the Planning Commission voted 8-0 to agree with the staff recommendation of approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 2, 2000

REVIEWED BY: _____

DATE: October 2, 2000

REFERENCE NUMBER: FS\CC\FSCZ3278

W44

DATE: August 28, 2000

Reduce the Building Line from 50' to 40' along South Street from Folsom Street to S. 1st Street.

Gary Bredehoff
Olsson Associates
1111 Lincoln Mall
P.O. Box 84608
Lincoln, Ne 68501-4608

Along South Street between Folsom Street and S. 1st Street.

Amend the Building Line District Map

To reduce the setback from South Street.

Along South Street between Folsom Street and S. 1st Street.

To the north and south is vacant and industrial zoned I-1.

The street is located inside the Future Service Limits.

South Street is classified as an Urban Collector Street.

No improvements are shown for South Street in the 1-20 Year Program.

HISTORY:

During the **1979** Zoning Update the area was converted from K light Industrial to I-1 Industrial.

On **May 19, 1986**, the City Council added Sections 27.71.190 and 27.71.200 to the Zoning Ordinance and adopted the Building Line District Map. The purpose of a building line district is to measure the yard line and the required yard from the building line district line rather than from the lot line or property line to reserve the front yard following street widening.

SPECIFIC INFORMATION:

TRAFFIC ANALYSIS:

The Public Works & Utilities Department does not oppose the request since the improvements in this section of rural designed roadway is not addressed in the 1-25 year plan.

STAFF CONCLUSION:

Figure 31, Improvements for Future Road Network 1-20 Year Program in the Comprehensive Plan shows no improvements to this section of South Street, therefore there is no apparent reason to reserve the additional setback along South Street.

STAFF RECOMMENDATION:

Approval

Prepared by:

Ray Hill
Planner

**ANNEXATION NO. 00004
and
CHANGE OF ZONE NO. 3278
TO CHANGE THE BUILDING LINE DISTRICT
and
PRELIMINARY PLAT NO. 00019
SOUTH STREET BUSINESS PARK**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 6, 2000

Members present: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer; Steward absent.

Planning staff recommendation: Approval of the Annexation and Change of Zone, and conditional approval of the Preliminary Plat.

Ray Hill of the Planning Department submitted a memo from the Parks Department with no additional comments, and a memo from the Fire Department finding the annexation acceptable.

Proponents

1. Mark Hunzeker appeared on behalf of the developer of this site. He believes the annexation and the building line district change are self-explanatory. They have met with staff for several months. This is an 84 acre site basically all in the 100 year floodplain. The Corps of Engineers study assumed that this entire floodplain area would be filled 100% up to the designated floodway. In accordance with that study and city regulations, the developer has obtained a permit to push fill on this property, which has largely been done, with the exception of about a 15-acre site which is being proposed to the Corps as a wetland bank. The agreement is under review and they have received very positive comments from the Corps and NRD. He anticipates the agreement will be back from the Corps soon.

Hunzeker explained that the proposal is for an upscale business park which will be a significant improvement in this area. They are in the process of drafting restrictive covenants which will require significant landscaping on each of the lots in addition to controlling construction materials, signage and plant approval. The developer has modified the street system, worked out drainage issues, modified access to the wetland areas, improved access to the dike along Salt Creek, and agreed to minimize the amount of fill on individual lots to raise only the building pad rather than the entire site, which is a substantial reduction in the amount of fill that could otherwise be legally placed on the property.

Hunzeker had only one condition of approval to address. The developer has requested a waiver of sidewalks adjacent to South Street and Folsom Street abutting this property. There are no sidewalks on the north side of South Street and there are no sidewalks on Folsom in either direction until you get

between 1/4 and 1/2 mile north of South Street. Hunzeker suggested that Condition #1.1.1 be amended such that the sidewalks along South Street and Folsom Street are waived; however, the subdivider and its successors and assigns shall waive any objection to the creation of a sidewalk district at such time as the City of Lincoln deems sidewalks to be necessary.

There was no testimony in opposition.

Carlson wondered when the sidewalks would be deemed necessary if Hunzeker's proposed amendment to Condition #1.1.1 is granted. Hill suggested that it would probably be when there is enough foot traffic to justify a sidewalk. Because of the amount of frontage this individual has, if the city had a petition to put in the sidewalks, this group of individuals would not have the opportunity to protest that, which would lead to the fact that they would most likely be installed if it becomes a need. Hill agreed with the proposed amendment to Condition #1.1.1.

Carlson sought confirmation that everything this developer has done is in compliance the floodplain regulations. Nicole Fleck-Tooze of Planning staff concurred that everything proposed on the plat meets the requirements of the subdivision ordinance that currently exist for floodplain issues. They have already obtained a floodplain fill permit from Building & Safety. Carlson stated that he has received citizen calls concerned about odors and dirt being moved around in this area. Fleck-Tooze advised that a floodplain fill permit can be issued prior to approval of the plat.

Newman noted that the ordinance provides that they cannot put in so much fill that it increases the height of the water 1'. Fleck-Tooze explained that the ordinance actually refers to a floodway and flood fringe. Within the fringe area they are permitted to place as much fill as they would like.

Fleck-Tooze further advised that the "no net rise" goes beyond our present requirements. Today we assume we would have 1' of rise. The Health Dept. did express that as a concern. This application does not propose "no net rise". There presumably would be some amount of rise, but they are meeting all of the current regulations.

Response by the Applicant

Hunzeker added that if the amendment to Condition #1.1.1 is granted, then Condition #3 needs to be deleted.

With regard to floodplain, Hunzeker suggested that this plat does not raise the floodplain issue all by itself. The plat itself is really neutral relative to the floodplain. The developer has the right and has the permit to place the fill on the site as it stands today. We could do everything that we intend to do by this subdivision by use of private drives and simply constructing multiple buildings and doing a condominium on this site without coming to the city for approval at all. The subdivision itself is not a vehicle for enforcing floodplain policy. But this application is in compliance with all the floodplain regulations and they are probably already about 90% complete on the fill that will get the property up. They have not filled the building pad sites yet because until you have building plans you don't know what the size will be. He anticipates that a lot of the buildings will have loading docks which will keep the grade down on half to two-thirds of the building.

Hunter expressed that she was at a loss to understand. It is scary to her having comments from the Health Department that strongly advocates no net rise, etc. Did the ordinance regarding storm water not go to the extent that it needed to address these kinds of things? Then what happens if there is a flood? Fleck-Tooze explained that the storm water ordinances that were recently adopted are separate from the issue of floodplain storage. The staff has talked a lot about bringing something forward and is in the process of looking at some studies to identify the issues and solutions. The city is working with the NRD and Corps to collect studies to look at no net rise and no loss of flood storage. It is anticipated that within the next year, the staff will be in a position to bring forward some revisions to the floodplain ordinance to address the issue. This is a straight preliminary plat which meets the requirements of subdivision ordinance.

Hunzeker suggested that the Health Dept. has no regulations on the subject. It's a situation where no net rise really doesn't apply to floodplain or flood fringe areas. It applies to floodways. This developer has complied with all the regulations.

Public hearing was closed.

ANNEXATION NO. 00004

ADMINISTRATIVE ACTION BY THE PLANNING COMMISSION:

September 6, 2000

Duvall moved approval, seconded by Schwinn and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

CHANGE OF ZONE NO. 3278

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 6, 2000

Duvall moved approval, seconded by Schwinn and carried 8-0: Krieser, Newman, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Steward absent.

PRELIMINARY PLAT NO. 00019

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

September 6, 2000

Duvall moved approval, with conditions, with amendment to #1.1.1 as requested by the applicant and deleting Condition #3, seconded by Schwinn.

Newman apologized, but building in a floodplain is a public health issue and she cannot vote for this. She urged the Board of Health to come up with a recommendation that says this is what the Health Dept. believes is correct or incorrect. She will not vote to approve because 20 years down the road, if this does flood downstream, she does not want to be responsible.

Rick Peo, City Attorney, interrupted the discussion. He noted a tendency to have protest votes and it is totally inappropriate. There are guidelines in the land subdivision ordinance that provide that the Planning Commission shall approve a preliminary plat if it complies with the minimum requirements.

The function as Planning Commission is to abide by the requirements of the ordinance and approve things that do comply. Peo suggested that the Commission spends too much time on protest votes that should go back to staff to change the law. In that case, Newman stated that she wants the no net rise legislation brought forward in the next two weeks.

Carlson noted that he had two or three calls about the dirt being moved. He understands that this complies with the standard as it exists. But this is analogous to what we continue to refer to as the acreage issue. We need guidance and resolution on these issues. It is not a protest vote but only to raise the issue. He will use this opportunity to urge staff to continue moving in the direction toward no net rise.

Motion for conditional approval, with amendments, carried 7-1: Krieser, Hunter, Duvall, Taylor, Schwinn, Carlson and Bayer voting 'yes'; Newman voting 'no'; Steward absent.